

United States Patent and Trademark Office



VM

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,557	09/17/2001	Masoud Molaei	ENDOV-55675	7940
24201	7590 12/03/2004	EXAMINER		
	R PATTON LEE & U	BUI, V	BUI, VY Q	
HOWARD I 6060 CENT	HUGHES CENTER ER DRIVE	ART UNIT	PAPER NUMBER	
	TENTH FLOOR			, (
LOS ANGE	LES, CA 90045		DATE MAILED: 12/03/2004	(0

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Application No. Applicant(s) WOLAEI, MASOUD				Λ Λ
Examinar		Application No.	Applicant(s)	NU
Vy Q. Bul 3731		09/954,557	MOLAEI, MASOUD	Ū
The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Eledentions for the many be wishled under the provision of 37 CPR 1.136(a). In colevent, however, may a reply be timely filed after 5X (b) MONTHS from the meiting date of this communication. It NO period for reply is specified above, the maximum studency period with the studency minimum of thirty (30) days will be considered timely. If NO period for reply is specified above, the maximum studency period will apply and will expire X(b) (MONTHS from the mailing date of this communication. Fallule to reply within the set or reterioded period for reply in the thirty filed, cause the application to become ABANDONED (39 U.S.C. § 133). Any reply meeting the time the filed within the time the filed part of this communication, even if firety filed, may reduce any eventure plant time application in Sinch the meiling date of this communication, even if firety filed, may reduce any eventure plant time application in Sinch time the filed time the filed of this communication. All Sinch this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 14-24 is/are pending in the application. 4a) Of the above claim(s) is/are allowed. Claim(s) 14-24 is/are rejected. 7) Claim(s) is/are allowed. Claim(s) is/are allowed. Claim(s) is/are objected to. B) Claim(s) is/are objected to by the Examiner. Application Papers 9) The gracification is objected to by the Examiner. Application Papers 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Application Papers 11) All b) Some is/are: a) accepted or b) objected to Se	Office Action Summary	Examiner	Art Unit	
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of inner may be available under the provisions of 37 CFR 1.136(a). In co event, however, may a reply be timely find decided from the communication of the provisions of 37 CFR 1.136(a). In co event, however, may a reply be timely find decided from the provision of 37 CFR 1.136(a). In covent, however, may a reply be timely find decided from the provision of				
THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CPR 1.13(a). In no event, however, may a reply be timely filed other SIX (6) MONTHS from the mailing date of this communication. If the period or may searches above is less then thry (30) days, a reply within the substation minimum of thiny (30) days will be consistent dimely. If the period or may searches above is less than the more mailing of the developed or the communication. Failure to reply within the set or extended period for reply will, by statule, cause the application to become ABANDONED (38 U.S.C.§ 133). Any neply received by the Official set then three morifies after the mailing date of this communication, even if timely filed, may reduce any same patent term adjustment. See 37 CFR 1.704(b). Status 1) Responsive to communication(s) filed on 8/5/2004 (RCE). 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 14-24 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 7) Claim(s) is/are allowed. 8) Claim(s) filed on is/are: allowed. 8) Claim(s) filed on is/are: allowed. 8) Claim(s) filed on is/are: allowed. 10) The drawing(s) filed on is/are: allowed. 10) The drawing(s) filed on is/are: allowed. 10) The ordawing(s) filed on is/are: allowed. 11) The cath or declaration is objected to by the Examiner. 12) Application Papers 13) Claim(s) control of the control of the provinty documents have been received in Application No. 13) Copies of the certified copies of the priority documents have been received in Application No. 24) Copies of the certified copies of the priority documents have been received in this Natio		pears on the cover sheet w	th the correspondence addre	ss
1)⊠ Responsive to communication(s) filed on 8/5/2004 (RCE). 2a)□ This action is FINAL. 2b)⊠ This action is non-final. 3)□ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4)☑ Claim(s) 14-24 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5)□ Claim(s) is/are allowed. 6)☑ Claim(s) is/are rejected. 7)□ Claim(s) is/are objected to. 8)□ Claim(s) are subject to restriction and/or election requirement. Application Papers 9)□ The specification is objected to by the Examiner. 10)□ The drawing(s) filed on is/are: a)□ accepted or b)□ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11)□ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12)□ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a)□ All b)□ Some * c)□ None of: 1.□ Certified copies of the priority documents have been received. 2.□ Certified copies of the priority documents have been received in Application No 3.□ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1 Notice of References Cited (PTO-892) 2 Notice of Dratsperson's Patent Drawing Review (PTO-948)	 THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a replication of the period for reply is specified above, the maximum statutory period Failure to reply within the set or extended period for reply will, by statut Any reply received by the Office later than three months after the mailing 	136(a). In no event, however, may a not solve, may a no	reply be timely filed ty (30) days will be considered timely. ITHS from the mailing date of this commit BANDONED (35 U.S.C. § 133).	unication.
2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 14-24 is/are pending in the application. 4a) Of the above claim(s)	Status			
4) Claim(s) 14-24 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) 14-24 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of Partsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date	2a) ☐ This action is FINAL . 2b) ☑ Thi 3) ☐ Since this application is in condition for allows	is action is non-final. ance except for formal mati		erits is
4a) Of the above claim(s) is/are withdrawn from consideration. 5) □ Claim(s) is/are allowed. 6) □ Claim(s) is/are rejected. 7) □ Claim(s) is/are objected to. 8) □ Claim(s) are subject to restriction and/or election requirement. Application Papers 9) □ The specification is objected to by the Examiner. 10) □ The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) □ All b) □ Some * c) □ None of: 1. □ Certified copies of the priority documents have been received in Application No 3. □ Copies of the certified copies of the priority documents have been received in Application No 3. □ Copies of the certified copies of the priority documents have been received in Application No 3. □ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.	Disposition of Claims			
9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	4a) Of the above claim(s) is/are withdra 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) <u>14-24</u> is/are rejected. 7) ☐ Claim(s) is/are objected to.	awn from consideration.		
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date	Application Papers			
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some color None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date	10) The drawing(s) filed on is/are: a) acceptable and applicant may not request that any objection to the Replacement drawing sheet(s) including the corrections.	cepted or b) objected to e drawing(s) be held in abeyanction is required if the drawing	nce. See 37 CFR 1.85(a). (s) is objected to. See 37 CFR 1	
a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Attachment (PTO-413) Paper No(s)/Mail Date	Priority under 35 U.S.C. § 119			
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date.	 a) All b) Some * c) None of: 1. Certified copies of the priority documer 2. Certified copies of the priority documer 3. Copies of the certified copies of the priority documer application from the International Burea 	nts have been received. nts have been received in A ority documents have beer au (PCT Rule 17.2(a)).	Application No received in this National Sta	age
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152) 6) Other:	1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	Paper No. 5) Notice of	s)/Mail Date Informal Patent Application (PTO-15	52)

Application/Control Number: 09/954,557

Art Unit: 3731

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 14-24 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over MATHIS et al. (6,129,755).

As to claims 14-22, and 24, MATHIS (Fig. 2; column 8, lines 45-54) discloses an intravascular self-expanding nitinol stent 50 for a human being restrained by sheath 40 for easy deployment. Nitinol stent 50 comprises from 50.5%-60% Ni and balance of titanium and the austenite finish temperature Af of about 24-37 degree C (column 8, lines 45-54), therefore, when stent 50 is at least partially deformed and restrained in sheath 40 during a deployment in the body of a patient, because the temperature of the stent 50 inherently is in the temperature range of 24-37° C, stent 50 must be in an austenite state as recited in the claim.

As to claim 23, notice that stent 50 and sheath/constraint 40 comprise every structural limitation as recited in the claims and because the composition of stent 50 is in the range of the composition of the stent as claimed in the present invention, stent 50 must have martensite

Application/Control Number: 09/954,557

Art Unit: 3731

deformation temperature about 50 degrees C higher than Af as recited in claim 23 of the present invention.

Alternatively, it would have been obvious to one of ordinary skill in the art to select the exact composition of Ni and Ti within the range of 50.5%-60% Ni and the balance of Ti so as stent 50 comprising every feature as recited in the claims.

Response to Amendment

The amendment filed on November 10, 2003 (paper #14) under has been considered but is ineffective to overcome the MATHIS et al. reference (US Pat. 6,129,755) reference.

The present invention claims a stent of shape memory alloy (Ni-Ti stent). MATHIS Ni-Ti shape memory alloy stent comprises substantially all structural limitations of the stent in the present invention as indicated above and as indicated above, because when stent 50 is at least partially deformed and restrained in sheath 40 during deployment in the body of a patient, stent 50 is in the temperature range of the austenite finish temperature Af of about 24°-37° C or stent 50 is indeed in an austenitic state as claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 703-306-3420. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-272-4692.

Application/Control Number: 09/954,557

Art Unit: 3731

Page 4

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vy Q. Bui

11/2s/2004

Primary Examiner Art Unit 3731